

RECEIVED
CENTRAL FAX CENTER

FEB 26 2008

LAW OFFICES OF
FAY KAPLUN & MARCIN, LLP
INTELLECTUAL PROPERTY LAW150 BROADWAY, SUITE 702
NEW YORK, NEW YORK 10038
PHONE: (212) 619-6000
FAX: (212) 208-6819
WWW.FKMIPLAW.COM**FACSIMILE COVER SHEET**

FAX NO : (571) 273-8300

TO : Commissioner for Patents
Mail Stop: Appeal Brief - Patent

FROM : Michael J. Marcin, Esq. of Fay Kaplun & Marcin, LLP

DATE : February 26, 2008

SUBJECT : U.S. Patent Appln. Serial No. 10/528,950
for PORTABLE COMPUTER DEVICE
Phillips Ref.: GB020166

NUMBER OF PAGES INCLUDING COVER: 19

MESSAGE:

Please see attached.

IF ANY PAGES WERE NOT RECEIVED OR ARE ILLEGIBLE, PLEASE CALL (212) 619-6000 AS SOON AS POSSIBLE

The information contained in this facsimile message is attorney privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us by telephone, and return the original message to us at the above address via the U.S. Postal Service. We will reimburse any costs you incur in notifying us and returning the message to us. Thank you.

Attorney Docket No. GB020166


RECEIVED
CENTRAL FAX CENTER

FEB 26 2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s) : Penna et al.
Serial No. : 10/528,950
Filing Date : March 23, 2005
For : PORTABLE COMPUTER DEVICE
Group Art Unit : 2629
Examiner : Afroza Y. Chowdhury
Confirmation No. : 1521

Mail Stop: Appeal Brief - Patent
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

<u>Certificate of Facsimile</u>	
I hereby certify that this correspondence is being deposited via facsimile addressed to:	
Mail Stop: Appeal Brief - Patents Commissioner for Patents Alexandria, VA 22313-1450 571-273-8300	
By: 	Date: February 26, 2008
Michael J. Marcin, Reg. 48,198	

TRANSMITTAL

In support of the Notice of Appeal filed on December 26, 2007, transmitted herewith please find an Appeal Brief for filing in the above-identified application. Please charge the Credit Card of Fay Kaplun & Marcin, LLP in the amount of \$510.00 (PTO-Form 2038 is enclosed herewith). The Commissioner is hereby authorized to charge the Deposit Account of Fay Kaplun & Marcin, LLP NO. 50-1492 for any additional required fees. A copy of this paper is enclosed for that purpose.

Respectfully submitted,

Dated: February 26, 2008

By: 
Michael J. Marcin, Reg. 48,198

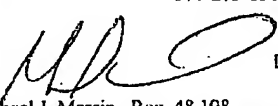
RECEIVED
CENTRAL FAX CENTER
FEB 26 2008

Attorney Docket No. GB020166

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s) : Penna et al.
Serial No. : 10/528,950
Filing Date : March 23, 2005
For : PORTABLE COMPUTER DEVICE
Group Art Unit : 2629
Examiner : Afroza Y. Chowdhury
Confirmation No. : 1521

Mail Stop: Appeal Brief - Patent
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450


Certificate of Facsimile	
I hereby certify that this correspondence is being deposited via facsimile addressed to:	
Mail Stop: Appeal Brief - Patents Commissioner for Patents Alexandria, VA 22313-1450 571-273-8300	
By: 	Date: February 26, 2008
Michael J. Marcin, Reg. 48,198	

TRANSMITTAL

In support of the Notice of Appeal filed on December 26, 2007, transmitted herewith please find an Appeal Brief for filing in the above-identified application. Please charge the Credit Card of Fay Kaplun & Marcin, LLP in the amount of \$510.00 (PTO-Form 2038 is enclosed herewith). The Commissioner is hereby authorized to charge the **Deposit Account of Fay Kaplun & Marcin, LLP NO. 50-1492** for any additional required fees. A copy of this paper is enclosed for that purpose.

Respectfully submitted,

Dated: February 26, 2008

By: 
Michael J. Marcin, Reg. 48,198

RECEIVED
CENTRAL FAX CENTER

(TUE) FEB 26 2008 16:53/ST. 16:52/No. 7514125143 P 4

FEB 26 2008

Serial No.: 10/528,950
Attorney Docket No.: GB 020166IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:

Penna et al.

Serial No.: 10/528,950

Filed: March 23, 2005

For: PORTABLE COMPUTER DEVICE

Group Art Unit: 2629

Examiner: Afroza Y. Chowdhury

**Board of Patent Appeals and
Interferences**

Confirmation No.: 1521

Mail Stop: Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450APPEAL BRIEF UNDER 37 C.F.R. § 41.37

In support of the Notice of Appeal filed on December 26, 2007, and pursuant to 37 C.F.R. § 41.37, Appellants present this appeal brief in the above-captioned application.

This is an appeal to the Board of Patent Appeals and Interferences from the Examiner's final rejection of claims 1-14 in the Final Office Action dated September 25, 2007 as clarified in the Advisory Action dated December 12, 2007. The appealed claims are set forth in the attached Claims Appendix.

02/27/2008 PCHOMP 00000058 10520950

01 FC:1402

510.00 OP

RECEIVED
CENTRAL FAX CENTER

FEB 26 2008

Serial No.: 10/528,950
Attorney Docket No.: GB 0201661. Real Party in Interest

This application is assigned to Koninklijke Philips Electronics N.V., the real party in interest.

2. Related Appeals and Interferences

There are no other appeals or interferences that would directly affect, be directly affected, or have a bearing on the instant appeal.

3. Status of the Claims

Claims 1-14 have been rejected in the Final Office Action. The final rejection of claims 1-14 is being appealed.

4. Status of Amendments

All amendments submitted by Appellants have been entered.

5. Summary of Claimed Subject Matter

The present invention, as recited in independent claim 1, is directed to a portable computer device comprising: a data input (26, 38) and a control input (16). (See Specification, p. 6, ll. 12-15, p. 7, l. 3, p. 7, l. 7, p. 8, ll. 28-30; Fig. 1). The portable computer device further including data acceptance logic (24,40) arranged to accept data on the data input (26, 38), to determine whether time and location information is present, to add time and/or location information to data items not having time and/or location information respectively and to store data items in memory (22) together with respective time and location information. (See Specification, p. 6, ll. 12-15, ll.20-21, ll. 24-29, p. 6, l. 30 – p. 7, l. 2; Fig. 1). A display arrangement (6,24,40) arranged to cause the display of data items, including data items stored in the memory (22), in one of a plurality of modes, the modes including a time mode and a space mode. (See Specification, p. 6, l. 1, p. 6, l. 13, ll. 20-21, ll. 24-28, p. 7, l. 10; Fig. 1, 5, 6). The display arrangement being arranged to switch (54) between the time and space modes in response to a corresponding input on the control input (16). (See Specification, p. 7, ll. 6-7, ll. 24-25; Fig. 1, 2). The display arrangement being further arranged to display in the time mode a

Serial No.: 10/528,950
Attorney Docket No.: GB 020166

representation (90) of a time interval together with representations (92) of those data items that have respective time information in the time interval, the representations of data items being displayed at locations corresponding to the respective time information. (See Specification, p. 9, ll. 20-26 ; Fig. 5, 6). The display arrangement being further arranged to display in the space mode a representation of a display area (94) together with representations (92) of those data items that have respective location information within the display area, the representations of data items being displayed at locations corresponding to the respective location information. (See Specification, p. 9, ll. 24-26, p. 9, l. 31 – p. 10, l. 3; Fig. 5, 6).

The present invention, as recited in independent claim 10, is directed to a method of operation of a computer device, the method including: accepting (70) input data. (See Specification, p. 8, l. 28; Fig. 4). The method further including testing (72) whether input data includes time information and determining (74) the time of any input data not including time information. (See Specification, p. 8, ll. 30-32; Fig. 4). The method further including testing (76) whether input data includes location information and determining (76) the computer device location as the location of any input data not including location information. (See Specification, p. 8, l. 32 – p. 9, l. 1; Fig. 4). The method further including recording (80) input data as data items including both time information and location information. (See Specification, p. 9, ll. 1-2; Fig. 4). The method further including accepting an input to select a time or a space mode. (See Specification, p. 8, ll. 6-9, p. 9, ll. 20-22, p. 9, l. 31 – p. 10, l. 5; Fig. 5, 6). The method further including in the time mode, displaying on a display screen representations (92) of data items in a time interval on a time line according to the time information stored in the memory corresponding to the data items. (See Specification, p. 7, ll. 10-19, p. 9, ll. 20-26, 29-30; Fig. 5). The method further including in the space mode, displaying on the display screen representations (92) of data items on a displayed area according to the location information corresponding to the data items. (See Specification, p. 7, ll. 20-23, p. 9, l. 31 – p. 10, l. 5; Fig. 6).

FEB 26 2008

Serial No.: 10/528,950
Attorney Docket No.: GB 0201666. Grounds of Rejection to be Reviewed on Appeal

I. Whether claims 1 and 10 are unpatentable under 35 U.S.C. § 102(e), over U.S. Pat. No. 6,437,797 to Ota et al. ("Ota")

II. Whether claims 2-3, 5-9 and 11-14 are unpatentable under 35 U.S.C. § 103(a) over U.S. Pat. No. 6,437,797 to Ota et al. ("Ota") in view of U.S. Pub. No. 20020154150 to Ogaki et al. ("Ogaki")

III. Whether claim 4 is unpatentable under 35 U.S.C. § 103(a) over U.S. Pat. No. 6,437,797 to Ota et al. ("Ota") in view of U.S. Pat. No. 6,801,777 to Rusch et al. ("Rusch")

7. Argument

I. The Rejection of Claims 1 and 10 under 35 U.S.C. § 102(e) as being unpatentable over Ota Should be Reversed.

A. The Examiner's Rejection

In the Final Office Action, the Examiner rejected claims 1 and 10 under 35 U.S.C. § 102 as being unpatentable over Ota. (See 09/25/07 Office Action, p. 2).

Ota is directed toward a method of image reproduction. (See Ota Abstract). Images are captured using a camera, and the GPS information relating to each captured image is recorded along with the image. (See Ota Abstract). The image is then transferred to a display device where the images are displayed along with a map showing the location where the image was captured. (See Ota Abstract). Ota allows a user to access the location where the image was captured and create albums in accordance with the place of capture. (See Ota Abstract).

RECEIVED
CENTRAL FAX CENTER

FEB 26 2008

Serial No.: 10/528,950
Attorney Docket No.: GB 020166

- B. The Cited Patent Does Not Disclose To Display In The Time Mode A Representation (90) Of A Time Interval Together With Representations (92) Of Those Data Items That Have Respective Time Information In The Time Interval, As Recited In Claim 1.

Claim 1 recites, "A portable computer device comprising: ... the display arrangement being arranged: ... to display in the time mode a representation (90) of a time interval together with representations (92) of those data items that have respective time information in the time interval, the representations of data items being displayed at locations corresponding to the respective time information." The Examiner asserts that this recitation of claim 1 is disclosed by Ota in Figure 9 elements 64B, 64E, and 64F. (See 09/25/07 Office Action p. 3). Appellants respectfully disagree.

Ota allows a user to select a specific image and view the time stamp of that specific image. "As shown in FIG.9, when a desired *image* is designated, the *image* file of the *designated image* is opened...The image display screen 64 shows the designated image 64A, the capturing time 64B of the image, latitude 64C, longitude 64D." (See Ota col. 5, ll. 43-50; Figure 9). A display of a capturing time is not "a representation (90) of a time interval" as recited in claim 1. The display of the capturing time in Ota is simply that, a single time when a single image was captured. There is no time interval associated with a single picture and there is surely no "representation (90) of a time interval" shown or suggested by the reference numeral 64B of Fig. 9, or its accompanying description in the specification of Ota.

Furthermore, Ota teaches that a title 64E and a description 64F may be displayed with the image. (See Ota col. 5, ll. 43-50; Figure 9). Thus, in Fig. 9 of Ota, a latitude 64C, a longitude 64D, a title 64E (stating a location in the example) and a description 64F (also stating a location in the example) are shown. All these items are related to the location that the image 64A was taken, not the screen location where the items are displayed. The items 64C-F may be displayed anywhere on the screen. The screen *location* of items 64C-F is irrelevant to the screen *location* of the capturing time 64B. There is no teaching or suggestion in Ota that the display of any of the items 64C-F are "being displayed at locations corresponding to the respective time information" as recited in claim 1.

Serial No.: 10/528,950
Attorney Docket No.: GB 020166

The only other discussion of time display in Ota occurs with respect to Fig. 10. Specifically, Ota allows the user to display all captured images by location, and the associated time stamps with each image, using a **digital map**. "If a 'DISPLAY CAPTURING TIME' button 72B is clicked on the digital map screen 72, the capturing time is displayed at each capturing place on the digital map." (See Ota col. 6, ll. 17-20). This allows the user to see the time stamp on all of the images currently being displayed on the map. There is no specified time interval, only the random times associated with the images being displayed on the digital map. There is also no representation of a time interval. The representation is of a map (or a location), not a time interval. This is in contrast with claim 1 which specifically recites "to display in the time mode a representation (90) of a *time interval* together with representation (92) of this data item that have respective time information in the time interval."

The Examiner further asserts that "It is inherent for different captured image to be displayed at a different time interval." (See 09/25/07 Office Action p. 8). The MPEP specifically states

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (reversed rejection because inherency was based on what would result due to optimization of conditions, not what was necessarily present in the prior art); *In re Oelrich*, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). "To establish inherency, the extrinsic evidence 'must make clear that the missing descriptive matter is *necessarily* present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. *Inherency, however, may not be established by probabilities or possibilities.* The mere fact that a certain thing may result from a given set of circumstances is not sufficient.' " *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999).

(See MPEP § 2112 part IV). The Examiner, however, does not state as to why the time interval feature would be inherently necessary to Ota. In fact, this is not something that is inherent to Ota. As stated above, Ota specifically teaches only the ability to display the time stamp of a specific file, and the ability to display all time stamps of files being displayed on a

Serial No.: 10/528,950
Attorney Docket No.: GB 020166

map. The ability to display images in a time interval is not something that can be inherently seen in this type of system.

The Examiner reiterated this position in the Advisory Action by stating that “Ota clearly teaches ‘time interval’ (fig. 9(64B)) and it is inherent for different captured image to be displayed at a different time interval.” (See 12/12/2007 Advisory Action). Appellants respectfully disagree. The Examiner cites fig. 9(64B), which clearly indicates only a singular capturing time of a singular image and not a time interval. As to the Examiner’s point that different images are displayed at different time intervals, the Appellants respectfully disagree with this statement. Different images may be displayed at different times, but this does not mean different time intervals. Moreover, claim 1 recites displaying “a representation of a time interval.” The fact that different images may be displayed at different times is inapposite to this recitation.

Thus, Appellants submit that Ota does not teach or suggest, “to display in the time mode a representation (90) of a time interval together with representations (92) of those data items that have respective time information in the time interval, the representations of data items being displayed at locations corresponding to the respective time information” as recited in claim 1. Therefore, Appellants respectfully request that the Board overturn the Examiner’s rejection of claim 1.

Independent claim 10 recites, “in the time mode, displaying on a display screen representations (92) of data items in a time interval on a time line according to the time information stored in the memory corresponding to the data items.” Thus, it is respectfully submitted that this claim is allowable for at least the same reasons stated above with reference to claim 1 and the Board should overturn the Examiner’s rejection of this claim.

RECEIVED
CENTRAL FAX CENTER

FEB 26 2008

Serial No.: 10/528,950
Attorney Docket No.: GB 020166

II. The Rejection of Claims 2-3, 5-9 and 11-14 under 35 U.S.C. § 103(a) as being unpatentable over Ota in view of Ogaki Should be Reversed.

A. The Examiner's Rejection

In the Final Office Action, the Examiner rejected claims 2-3, 5-9 and 11-14 under 35 U.S.C. § 103(a) as being unpatentable over Ota in view of Ogaki. (See 09/25/07 Office Action, p. 5).

Appellants submit that Ogaki does not cure the above-described deficiencies of Ota with respect to claims 1 and 10. Because claims 2, 3 and 5-9 depend from, and therefore include all the limitations of claim 1. Thus, Appellants respectfully submit that the Board overturn the Examiner's rejection of these for at least the same reasons given above with respect to claim 1. Because claims 11-14 depend from, and therefore include all the limitations of claim 10, Appellants respectfully submit that the Board overturn the Examiner's rejection of these for at least the same reasons given above with respect to claim 10.

III. The Rejection of Claim 4 under 35 U.S.C. § 103(a) as being unpatentable over Ota in view of Rusch Should be Reversed.

A. The Examiner's Rejection

In the Final Office Action, the Examiner rejected claim 4 under 35 U.S.C. § 103(a) as being unpatentable over Ota in view of Rusch. (See 09/25/07 Office Action, p. 5).

Appellants submit that Rusch does not cure the above-described deficiencies of Ota and Ogaki with respect to claim 1. Because claim 4 depends from, and therefore includes all the limitations of claim 1, Appellants respectfully submit that the Board overturn the Examiner's rejection of these for at least the same reasons given above with respect to claim 1.

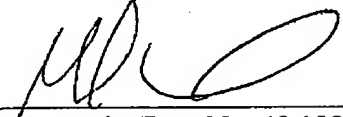
Serial No.: 10/528,950
Attorney Docket No.: GB 020166

8. Conclusion

For the reasons set forth above, Appellants respectfully request that the Board reverse the rejection of the claims by the Examiner under 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a), and indicate that claims 1-14 are allowable.

Respectfully submitted,

Date: February 26, 2008

By: 
Michael Marcin (Reg. No. 48,198)

Fay Kaplun & Marcin, LLP
150 Broadway, Suite 702
New York, NY 10038
Tel: (212) 619-6000
Fax: (212) 619-0276

Serial No.: 10/528,950
Attorney Docket No.: GB 020166

RECEIVED
CENTRAL FAX CENTER

FEB 26 2008

CLAIMS APPENDIX

1. (Rejected) A portable computer device comprising:

a data input (26, 38);

a control input (16);

data acceptance logic (24,40) arranged to accept data on the data input (26, 38), to determine whether time and location information is present, to add time and/or location information to data items not having time and/or location information respectively and to store data items in memory (22) together with respective time and location information; and a display arrangement (6,24,40) arranged to cause the display of data items, including data items stored in the memory (22), in one of a plurality of modes, the modes including a time mode and a space mode, the display arrangement being arranged:

to switch (54) between the time and space modes in response to a corresponding input on the control input (16);

to display in the time mode a representation (90) of a time interval together with representations (92) of those data items that have respective time information in the time interval, the representations of data items being displayed at locations corresponding to the respective time information; and

to display in the space mode a representation of a display area (94) together with representations (92) of those data items that have respective location information within the display area, the representations of data items being displayed at locations corresponding to the respective location information.

2. (Rejected) A portable computer device according to claim 1 further comprising a zoom control (14), wherein the portable computer device accepts input from the zoom control (14) and

Serial No.: 10/528,950
Attorney Docket No.: GB 020166

adjusts the zoom setting of the display to adjust the displayed time interval in the time mode and the display area in the space mode in accordance with the input on the zoom control.

3. (Rejected) A computer device according to claim 2 wherein the data items (92) are displayed together with information (96) relating to the data items, the amount of information displayed for each data item varying with the zoom setting set by the zoom control.

4. (Rejected) A portable computer device according to any preceding claim further comprising:

a location determining arrangement (28) for obtaining location information; and

a clock unit (32) for determining time information, wherein the display arrangement includes a screen (6) for displaying information; and

the data input includes data exchange circuitry (26, 38) including a wireless interface for bi-directional communication.

5. (Rejected) A portable computer device according to any preceding claim further comprising a control (18) for selecting data items wherein on switching between time and location modes the selected data item remains displayed.

6. (Rejected) A portable computer device according to any preceding claim wherein the display of data items includes displaying icons (92) corresponding to the data items.

7. (Rejected) A computer device according to any preceding claim wherein the data acceptance logic associates a tag (45) of predetermined format with each data item, the tag including the location, the time and the type of the corresponding data item.

8. (Rejected) A computer device according to any preceding claim further comprising a scroll control (12) for scrolling the time mode and space mode displays.

Serial No.: 10/528,950
Attorney Docket No.: GB 020166

9. (Rejected) A computer device according to any preceding claims further comprising a camera (30) to record images.

10. (Rejected) A method of operation of a computer device, the method including:
accepting (70) input data;

testing (72) whether input data includes time information and determining (74) the time of any input data not including time information;

testing (76) whether input data includes location information and determining (76) the computer device location as the location of any input data not including location information;
recording (80) input data as data items including both time information and location information;
accepting an input to select a time or a space mode;

in the time mode, displaying on a display screen representations (92) of data items in a time interval on a time line according to the time information stored in the memory corresponding to the data items;

in the space mode, displaying on the display screen representations (92) of data items on a displayed area according to the location information corresponding to the data items.

11. (Rejected) A method according to claim 10 including accepting input on a zoom control(14) and zooming the display to change the display area in the space mode and to change the time interval in the time mode wherein the data items (92) are displayed together with information (96) relating to the data items, the amount of information displayed for each data item varying with the zoom setting set by the zoom control.

12. (Rejected) A method according to claim 10 or 11 further including recording an image corresponding to a new event, storing the image as a data item (44) together with the time and location information and displaying the image when displaying the data item.

Serial No.: 10/528,950
Attorney Docket No.: GB 020166

13. (Rejected) A computer program product (40) arranged to cause a computer to carry out the steps of a method according to claim 10.

14. (Rejected) A computer program product (40) according to claim 13 recorded on a data carrier (22).

Serial No.: 10/528,950
Attorney Docket No.: GB 020166

EVIDENCE APPENDIX

No evidence has been entered or relied upon in the present appeal.

Serial No.: 10/528,950
Attorney Docket No.: GB 020166

RELATED PROCEEDING APPENDIX

No decisions have been rendered regarding the present appeal or any proceedings
related thereto.